

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 3144 + 3149

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2016 OCT 17 PH 2:13

October 17, 2016

SENSITIVE

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Debbie Chacona *DC/MC*
Assistant Staff Director
Reports Analysis Division

BY: *KDR*
Kristin D. Roser/Ben Holly *B.H.*
Reports Analysis Division
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2016 August Monthly Report for the
Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2016 August Monthly Report in accordance with 52 U.S.C. § 30104(a). The August Monthly Report was due on August 20, 2016.

The committees listed on the attached RTB Circulation Report either failed to file the report or filed the report no more than thirty (30) days after the due date (considered a late filed report), or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers, in their official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

Federal Election Commission
Reason to Believe Circulation Report
2016 AUGUST MONTHLY Not Election Sensitive 08/20/2016 P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
3143	C00525899	CONCERNED AMERICAN VOTERS		EDWARD KING	\$9,044,184	0	9/9/2016	20	\$1,315	\$152
3144	C00496505	CONSERVATIVE ACTION FUND		DAN BACKER	\$628,022	0	10/10/2016	Not Filed	\$24,779 (est)	\$643
3145	C00374298	NATIONAL PEANUT BUYING POINTS ASSOCIATION PEANUT BUYING POINT PAC		J. TYRON SPEARMAN	\$128,573	0	9/14/2016	25	\$8,650	\$214
3146	C00544767	STOP HILLARY PAC		DAN BACKER	\$3,448,723	0	10/15/2016	Not Filed	\$345,389 (est)	\$10,935

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation –)
2016 August Monthly Report for the)
Administrative Fine Program:)
CONCERNED AMERICAN VOTERS, and) AF# 3143
KING, EDWARD as treasurer;)
CONSERVATIVE ACTION FUND, and) AF# 3144
BACKER, DAN ESQ. as treasurer;)
NATIONAL PEANUT BUYING POINTS) AF# 3145
ASSOCIATION PEANUT BUYING)
POINT PAC, and J TYRON SPEARMAN)
as treasurer;)
STOP HILLARY PAC, and BACKER,) AF# 3146
DAN as treasurer;)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on October 18, 2016 the Commission took the following actions on the Reason To Believe Recommendation – 2016 August Monthly Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated October 17, 2016, on the following committees:

AF#3143 Decided by a vote of 6-0 to: (1) find reason to believe that CONCERNED AMERICAN VOTERS, and KING, EDWARD in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3144 Decided by a vote of 6-0 to: (1) find reason to believe that CONSERVATIVE ACTION FUND, and BACKER, DAN ESQ. in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3145 Decided by a vote of 6-0 to: (1) find reason to believe that NATIONAL PEANUT BUYING POINTS ASSOCIATION PEANUT BUYING POINT PAC, and J TYRON SPEARMAN in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3146 Decided by a vote of 6-0 to: (1) find reason to believe that STOP HILLARY PAC, and BACKER, DAN in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

October 19, 2016
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 19, 2016

Dan Backer, in official capacity as Treasurer
Conservative Action Fund
203 South Union Street, Suite 300
Alexandria, VA 22314

C00496505
AF#: 3144

Dear Mr. Backer:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an August Monthly Report of Receipts and Disbursements covering the period July 1, 2016 through July 31, 2016. This report shall be filed no later than August 20, 2016: 52 U.S.C. § 30104(a). Because records at the Federal Election Commission ("FEC") indicate that you did not file within thirty (30) days of the due date, the report is considered not filed for the purpose of calculating the civil money penalty. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On October 18, 2016, the FEC found that there is reason to believe ("RTB") that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before August 20, 2016. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$643. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55, Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$643 is due within forty (40) days of the finding, or by November 27, 2016, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive

Level of Activity: \$24,779

Number of Days Late: Not Filed (reports not filed within thirty (30) days of the due date are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or November 27, 2016. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate

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action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

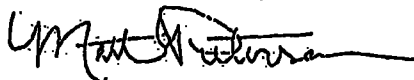
5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chair

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$643 for the 2016 August Monthly Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Conservative Action Fund

FEC ID#: C00496505

AF#: 3144

PAYMENT DUE DATE: November 27, 2016

PAYMENT AMOUNT DUE: \$643



RECEIVED
FEDERAL ELECTION
PAC • CAMPAIGN • NON-PROFIT • POLITICAL LAW

2016 NOV 17 PM 2:10

Federal Election Commission
Office of Administrative Review
999 E Street, N.W.
Washington, D.C. 20463

OFFICE OF GENERAL

RE: RTB Finding Against Conservative Action Fund
C00496505
AF #3144

Dear Sir or Ma'am,

Conservative Action Fund ("CAF"), as well as Dan Backer, in his official capacity as Treasurer, hereby challenge the Federal Election Commission's ("FEC" or "Commission") Reason to Believe finding and associated civil penalty in the above-captioned matter, *see* Exhibit 1, on the grounds they are based on factual errors. 11 C.F.R. § 111.35(b)(1). Though not expressly authorized by § 111.35(b), CAF also maintains that the finding is based on legal errors, as well.

STATEMENT OF FACTS

The Federal Election Campaign Act, Pub. L. No. 92-225, 86 Stat. 3 (Feb. 7, 1972), as amended by the Bipartisan Campaign Reform Act, Pub. L. No. 107-155, 116 Stat. 81 (Mar. 27, 2002), requires political committees to file periodic reports concerning their receipts and disbursements. 52 U.S.C. § 30104(a)(1). Unauthorized political committees (colloquially, "PACs") may choose to file either quarterly reports pursuant to 52 U.S.C. § 30104(a)(4)(A), or monthly reports pursuant to 52 U.S.C. § 30104(a)(4)(B).

FEC regulations provide a political committee "may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa." 11 C.F.R. § 104.5(c). A committee "may change its filing frequency...no more than once per calendar year." *Id.*

As of early December 2015, CAF was required to file reports with the FEC on a quarterly basis. On December 31, 2015, at approximately 2:16 P.M. Eastern Standard Time ("EST"), CAF filed an FEC Form 99 through CMDI Crimson, an electronic filing platform, to notify the Commission that it "is switching to monthly filing." Exh. 2 (hereafter, "2015 Change-of-Frequency Notice"). CAF had not previously changed its filing frequency in 2015. The FEC received CAF's notice "immediately." 52 U.S.C. § 30104(a)(12)(A)(i)(II), (a)(12)(B). CAF's submission complied with the FEC's electronic filing specification requirements and, on information and belief, was "checked upon receipt against the [FEC's] validation program" and was properly validated. 11 C.F.R. § 104.18(e)(1). CAF's notice was then made publicly accessible, also on December 31, 2015, through the FEC's website.

On January 7, 2016, CAF received a letter from the FEC stating, "The Commission has received notification of your 12/31/2015 request to change to a Monthly filer of receipt and disbursements." Exh. 3. Consistent with its changed filing status, CAF filed monthly reports from February 2016 through July 2016.

On July 27, 2016, CAF filed a FEC Form 99, again through CMDI Crimson, to notify the Commission that it is "switching to quarterly filing." Exh. 4 (hereafter, "2016 Change-of-Frequency Notice"). The FEC responded the next day with a letter stating:

The Commission has received notification of your 7/27/2016 request to change to a Quarterly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. On 12/31/2015 the committee requested to change its filing frequency to Monthly for the 2016 calendar year; therefore, the 7/27/2016 request to change to a Quarterly filing schedule for 2016 is denied.

Exh. 5.

Subsequently, CAF submitted a Form 99 explaining that it had validly changed its filing frequency from being a monthly filer to a quarterly filer, laying out the analysis specified below. Exh. 6. Consistent with its new status as a quarterly filer, CAF timely filed a report on October 10, 2016 concerning its activities from July 1, 2016 through September 30, 2016. Consequently, CAF has timely submitted all required reports.

ANALYSIS AND BASIS FOR CHALLENGE

The FEC's finding, that CAF was required to file an August Monthly Report of Receipts and Disbursements, is incorrect. On July 27, 2016, CAF validly switched from being a monthly filer to a quarterly filer, *see* 52 U.S.C. § 30104(a)(4)(A)-(B); 11 C.F.R. § 104.5(c), and therefore was not required to file an August monthly report.

The FEC erred in rejecting CAF's 2016 Change-of-Frequency Notice. The FEC's regulations concerning change-of-frequency notices provide, "Designations, reports or statements electronically filed must be received and validated at or before 11:59 p.m., eastern standard/daylight time on the prescribed filing date to be timely filed." *Id.* 11 C.F.R. § 104.5(e); *accord id.* § 100.19(c); *see also id.* § 104.18(e) (discussing the FEC's validation program for electronically submitted documents). CAF filed its 2015 Change-of-Frequency Notice through an electronic filing platform at approximately 2:16 P.M. on December 31, 2015—in other words, during normal business hours on a regularly scheduled workday. The notice was received, validated, and made publicly available through the FEC's website the same day. Because CAF's 2015 Change-of-Frequency Notice was "received and validated" before 11:59 P.M. EST on December 31, 2015, it must be deemed filed in 2015. *Id.* § 104.5(e). Indeed, the FEC's response to that notice expressly identifies it as CAF's "12/31/2015 request to change to a Monthly filer." Exh. 3.¹ The fact that the FEC may not have further processed or responded to the notice until January 7, 2016, *see* Exh. 2, is completely irrelevant and does not affect its filing date.

¹ Consistent with its regulations, the FEC has a longstanding pattern and practice of accepting change-of-frequency forms and giving them legal effect as of their date of receipt. Departing from such an interpretation and application of the law would be both arbitrary and a violation of CAF's Equal Protection rights under the Due Process Clause of the Fifth Amendment.

CAF's 2016 Change-of-Frequency Notice, filed on July 27, 2016, was therefore its first and only change to its filing frequency for calendar year 2016. That notice did not violate 11 C.F.R. § 104.5(c)'s restriction that a committee "may change its filing frequency no more than once per calendar year." As CAF's 2016 Change-of-Frequency Notice was legally valid, it was not obligated to file an August monthly report. The FEC's findings against CAF and civil penalty therefore rest on both factual and legal errors and must be vacated.

VERIFICATION

Pursuant to 11 C.F.R. § 111.36(c), I certify that I am at least 18 years old and of sound mind. Except where otherwise specified, the foregoing statements of fact are based on personal knowledge. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. If called upon to testify, I would make materially identical assertions.

Executed on November 16, 2016.

Dan Backer

Digitally signed by Dan Backer
DN: cn=Dan Backer, o=DB Capitol
Strategies PLLC, ou,
email=dbacker@DBCapitolStrategies.
com, c=US
Date: 2016.11.16 09:50:23 -05'00'

/s/ Dan Backer

Dan Backer

Counsel for Conservative Action Fund



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 19, 2016

Dan Backer, in official capacity as Treasurer
Conservative Action Fund
203 South Union Street, Suite 300
Alexandria, VA 22314

C00496505
AF#: 3144

Dear Mr. Backer:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an August Monthly Report of Receipts and Disbursements covering the period July 1, 2016 through July 31, 2016. This report shall be filed no later than August 20, 2016. 52 U.S.C. § 30104(a). Because records at the Federal Election Commission ("FEC") indicate that you did not file within thirty (30) days of the due date, the report is considered not filed for the purpose of calculating the civil money penalty. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On October 18, 2016, the FEC found that there is reason to believe ("RTB") that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before August 20, 2016. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$643. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55, Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$643 is due within forty (40) days of the finding, or by November 27, 2016, and is based on these factors:-

Election Sensitivity of Report: Not Election Sensitive

Level of Activity: \$24,779

Number of Days Late: Not Filed (reports not filed within thirty (30) days of the due date are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. **If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or November 27, 2016. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate

action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

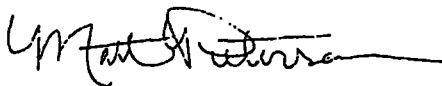
5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chair

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$643 for the 2016 August Monthly Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox. SL-MO-C2GL
St. Louis, MO 63101

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Conservative Action Fund

FEC ID#: C00496505

AF#: 3144

PAYMENT DUE DATE: November 27, 2016

PAYMENT AMOUNT DUE: \$643

Subpart B—Administrative Fines

SOURCE: 65 FR 31794, May 19, 2000, unless otherwise noted.

§111.30 When will subpart B apply?

Subpart B applies to violations of the reporting requirements of 52 U.S.C. 30104(a) committed by political committees and their treasurers that relate to the reporting periods that begin on or after July 14, 2000, and that end on or before the date specified by 52 U.S.C. 30109(a)(4)(C)(v). This subpart, however, does not apply to reports that relate to reporting periods that end between January 1, 2014, and January 21, 2014.

[79 FR 3303, Jan. 21, 2014, as amended at 79 FR 77848, Dec. 29, 2014]

§111.31 Does this subpart replace subpart A of this part for violations of the reporting requirements of 52 U.S.C. 30104(a)?

(a) No; §§111.1 through 111.8 and 111.20 through 111.24 shall apply to all compliance matters. This subpart will apply rather than §§111.9 through 111.19, when the Commission, on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, and when appropriate, determines that the compliance matter should be subject to this subpart. If the Commission determines that the violation should not be subject to this subpart, then the violation will be subject to all sections of subpart A of this part.

(b) Subpart B will apply to compliance matters resulting from a complaint filed pursuant to 11 CFR 111.4 through 111.7 if the complaint alleges a violation of 52 U.S.C. 30104(a). If the complaint alleges violations of any other provision of any statute or regulation over which the Commission has jurisdiction, subpart A will apply to the alleged violations of these other provisions.

[65 FR 31794, May 19, 2000, as amended at 79 FR 77848, Dec. 29, 2014]

§111.32 How will the Commission notify respondents of a reason to believe finding and a proposed civil money penalty?

If the Commission determines, by an affirmative vote of at least four (4) of its members, that it has reason to believe that a respondent has violated 52 U.S.C. 30104(a), the Chairman or Vice-Chairman shall notify such respondent of the Commission's finding. The written notification shall set forth the following:

(a) The alleged factual and legal basis supporting the finding including the type of report that was due, the filing deadline, the actual date filed (if filed), and the number of days the report was late (if filed);

(b) The applicable schedule of penalties;

(c) The number of times the respondent has been assessed a civil money penalty under this subpart during the current two-year election cycle and the prior two-year election cycle;

(d) The amount of the proposed civil money penalty based on the schedules of penalties set forth in 11 CFR 111.43 or 111.44; and

(e) An explanation of the respondent's right to challenge both the reason to believe finding and the proposed civil money penalty.

[65 FR 31794, May 19, 2000, as amended at 79 FR 77848, Dec. 29, 2014]

§111.33 What are the respondent's choices upon receiving the reason to believe finding and the proposed civil money penalty?

The respondent must either send payment in the amount of the proposed civil money penalty pursuant to 11 CFR 111.34 or submit a written response pursuant to 11 CFR 111.35.

Attachment 1

(e) Respondent's written response must detail the factual basis supporting its challenge and include supporting documentation.

[72 FR 14667, Mar. 29, 2007]

§111.36 Who will review the respondent's written response?

(a) A reviewing officer shall review the respondent's written response. The reviewing officer shall be a person who has not been involved in the reason to believe finding.

(b) The reviewing officer shall review the reason to believe finding with supporting documentation and the respondent's written response with supporting documentation. The reviewing officer may request supplemental information from the respondent and/or the Commission staff. The respondent shall submit the supplemental information to the reviewing officer within a time specified by the reviewing officer. The reviewing officer will be entitled to draw an adverse inference from the failure by the respondent to submit the supplemental information.

(c) All documents required to be submitted by the respondents pursuant to this section and §111.35 should be submitted in the form of affidavits or declarations.

(d) If the Commission staff, after the respondent files a written response pursuant to §111.35, forwards any additional documents pertaining to the matter to the reviewing officer for his or her examination, the reviewing officer shall also furnish a copy of the document(s) to the respondents.

(e) Upon completion of the review, the reviewing officer shall forward a written recommendation to the Commission along with all documents required under this section and 11 CFR 111.32 and 111.35.

(f) The reviewing office shall also forward a copy of the recommendation to the respondent. The respondent may file with the Commission Secretary a written response to the recommendation within ten (10) days of transmittal of the recommendation. This response may not raise any arguments not raised in the respondent's original written response or not directly responsive to the reviewing officer's recommendation.

§111.37 What will the Commission do once it receives the respondent's written response and the reviewing officer's recommendation?

(a) If the Commission, after having found reason to believe and after reviewing the respondent's written response and the reviewing officer's recommendation, determines by an affirmative vote of at least four (4) of its members, that the respondent has violated 52 U.S.C. 30104(a) and the amount of the civil money penalty, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

(b) If the Commission, after reviewing the reason to believe finding, the respondent's written response, and the reviewing officer's written recommendation, determines by an affirmative vote of at least four (4) of its members, that no violation has occurred (either because the Commission had based its reason to believe finding on a factual error or because the respondent used best efforts to file in a timely manner) or otherwise terminates its proceedings, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

(c) The Commission will modify the proposed civil money penalty only if the respondent is able to demonstrate that the amount of the proposed civil money penalty was calculated on an incorrect basis.

(d) When the Commission makes a final determination under this section, the statement of reasons for the Commission action will, unless otherwise indicated by the Commission, consist of the reasons provided by the reviewing officer for the recommendation, if approved by the Commission, although statements setting forth additional or different reasons may also be issued. If the reviewing officer's recommendation is modified or not approved, the Commission will indicate the grounds for its action and one or more statements of reasons may be issued.

[65 FR 31794, May 19, 2000, as amended at 72 FR 14668, Mar. 29, 2007; 79 FR 77848, Dec. 29, 2014]

§111.38 Can the respondent appeal the Commission's final determination?

Attachment I

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1-4,999.99 ^a	$[\$32 + (\$6 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$321 \times [1 + (.25 \times \text{Number of previous violations})]$
\$5,000-9,999.99	$[\$64 + (\$6 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$386 \times [1 + (.25 \times \text{Number of previous violations})]$
\$10,000-24,999.99	$[\$137 + (\$6 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$643 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000-49,999.99	$[\$273 + (\$26 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$1,157 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000-74,999.99	$[\$410 + (\$103 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$3,691 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000-99,999.99	$[\$547 + (\$137 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$4,784 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000-149,999.99	$[\$820 + (\$171 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$6,151 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000-199,999.99	$[\$1,094 + (\$205 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$7,518 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000-249,999.99	$[\$1,367 + (\$239 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$8,885 \times [1 + (.25 \times \text{Number of previous violations})]$
\$250,000-349,999.99	$[\$2,050 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$10,935 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000-449,999.99	$[\$2,734 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$12,302 \times [1 + (.25 \times \text{Number of previous violations})]$
\$450,000-549,999.99	$[\$3,417 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$12,985 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000-649,999.99	$[\$4,101 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$13,669 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000-749,999.99	$[\$4,784 + (\$273 \times \text{Number of days late})]$	$\$14,352 \times [1 + (.25 \times \text{Number of previous violations})]$

Attachment I

17002712802

\$200,000-249,999.99	$[\$2,050 + (\$239 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$10,252 \times [1 + (.25 \times \text{Number of previous violations})]$
\$250,000-349,999.99	$[\$3,076 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$12,302 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000-449,999.99	$[\$4,101 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$13,669 \times [1 + (.25 \times \text{Number of previous violations})]$
\$450,000-549,999.99	$[\$5,126 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$15,036 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000-649,999.99	$[\$6,151 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$16,403 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000-749,999.99	$[\$7,176 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$17,770 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000-849,999.99	$[\$8,201 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$19,136 \times [1 + (.25 \times \text{Number of previous violations})]$
\$850,000-949,999.99	$[\$9,227 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$20,503 \times [1 + (.25 \times \text{Number of previous violations})]$
\$950,000 or over	$[\$10,252 + (\$273 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$21,870 \times [1 + (.25 \times \text{Number of previous violations})]$

*The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$7,518.

(d) *Definitions.* For this section only, the following definitions will apply:

(1) *Election Sensitive Reports* means third quarter reports due on October 15th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); monthly reports due October 20th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); and pre-election reports for primary, general, and special elections under 11 CFR 104.5.

(2) *Estimated level of activity* means:

Attachment 1

(b) For purposes of this section, prior violation means a final civil money penalty that has been assessed against the respondent under this subpart in the current two-year election cycle or the prior two-year election cycle.

[65 FR 31794, May 19, 2000, as amended at 70 FR 34636, June 15, 2005; 74 FR 31349, July 1, 2009; 79 FR 77848, Dec. 29, 2014; 81 FR 41200, June 24, 2016]

§111.45 [Reserved]

§111.48 How will the respondent be notified of actions taken by the Commission and the reviewing officer?

If a statement designating counsel has been filed in accordance with 11 CFR 111.23, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to designated counsel. If a statement designating counsel has not been filed, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to respondent political committee and its treasurer at the political committee's address as listed in the most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2.

[68 FR 12580, Mar. 17, 2003]

Subpart C—Collection of Debts Arising From Enforcement and Administration of Campaign Finance Laws

SOURCE: 75 FR 19876, Apr. 16, 2010, unless otherwise noted.

§111.50 Purpose and scope.

Subpart C prescribes standards and procedures under which the Commission will collect and dispose of certain debts owed to the United States, as described in 11 CFR 111.51. The regulations in this subpart implement the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701, 3711, and 3716-3720A, as amended; and the Federal Claims Collection Standards, 31 CFR parts 900-904. The activities covered include: The collection of claims of any amount; compromising claims; suspending or terminating the collection of claims; and referring debts to the U.S. Department of the Treasury for collection action.

§111.51 Debts that are covered.

(a) The procedures of this subpart C of part 111 apply to claims for payment or debt arising from, or ancillary to, any action undertaken by or on behalf of the Commission in furtherance of efforts to ensure compliance with the Federal Election Campaign Act, 52 U.S.C. 30101 *et seq.*, as amended, and to administer the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.*, and Commission regulations, including:

- (1) Negotiated civil penalties in enforcement matters and alternative dispute resolution matters;
- (2) Civil money penalties assessed under the administrative fines program;
- (3) Claims reduced to judgment in the courts and that are no longer in litigation;
- (4) Repayments of public funds under the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*; or
- (5) Repayment of public funds under the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.*

(b) The procedures covered by this subpart do not apply to any of the following debts:

- (1) Debts that result from administrative activities of the Commission that are governed by 11 CFR part 8.
- (2) Debts involving criminal actions of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other person having an interest in the claim.

Attachment 1

(a) The Commission shall assess interest, penalties, and administrative costs on debts owed to the United States Government, pursuant to 31 U.S.C. 3717. Interest, penalties, and administrative costs will be assessed in accordance with 31 CFR 901.9.

(b) The Commission shall waive collection of interest and administrative costs on a debt or any portion of the debt that is paid within thirty days after the date on which the interest begins to accrue.

(c) The Commission may waive collection of interest, penalties, and administrative costs if it:

(1) Determines that collection is against equity and good conscience or not in the best interest of the United States, including when an administrative offset or installment agreement is in effect; or

(2) Determines that waiver is appropriate under the criteria for compromise of debts set forth at 31 CFR 902.2(a).

(d) The Commission is authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with common law.

Attachment I

CONFIDENTIAL

MISCELLANEOUS TEXT (FEC Form 99)

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This committee is switching to monthly filing.

EXHIBIT 2, PAGE 1



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-O

January 7, 2016

DAN BACKER, ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: CHANGE TO MONTHLY FILER

Dear Treasurer:

The Commission has received notification of your 12/31/2015 request to change to a Monthly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. Attached is a reporting schedule for the remainder of the 2015 calendar year and the 2016 calendar year.

If you have any questions, please contact David Garr in the Reports Analysis Division on the toll free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). His local number is (202) 694-1137.

Sincerely,

A handwritten signature in black ink that reads "Kristin D. Roser".

Kristin Roser
Chief, Compliance Branch
Reports Analysis Division

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2016 Monthly Filing Schedule

Report Type	Coverage dates	Due Date
2015 Year-End	7/1/2015 - 12/31/2015	1/31/2016
February Monthly	1/1/2016 - 1/31/2016	2/20/2016
March Monthly	2/1/2016 - 2/29/2016	3/20/2016
April Monthly	3/1/2016 - 3/31/2016	4/20/2016
May Monthly	4/1/2016 - 4/30/2016	5/20/2016
June Monthly	5/1/2016 - 5/31/2016	6/20/2016
July Monthly	6/1/2016 - 6/30/2016	7/20/2016
August Monthly	7/1/2016 - 7/31/2016	8/20/2016
September Monthly	8/1/2016 - 8/31/2016	9/20/2016
October Monthly	9/1/2016 - 9/30/2016	10/20/2016
12 Day Pre-General	10/1/2016 - 10/19/2016	10/27/2016
30 Day Post-General	10/20/2016 - 11/28/2016	12/8/2016
Year-End	11/29/2016 - 12/31/2016	1/31/2017

MISCELLANEOUS TEXT (FEC Form 99)

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NAME OF COMMITTEE (In Full)
Conservative Action Fund

FEC IDENTIFICATION NUMBER
C00496505

Mailing Address 203 South Union Street
Suite 300

City	State	ZIP Code
Alexandria	VA	22314

This committee is switching to quarterly filing.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-O

July 28, 2016

DAN BACKER, ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: CHANGE TO MONTHLY FILER

Dear Treasurer:

The Commission has received notification of your 7/27/2016 request to change to a Quarterly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. On 12/31/2015 the committee requested to change its filing frequency to Monthly for the 2016 calendar year; therefore, the 7/27/2016 request to change to a Quarterly filing schedule for 2016 is denied. Attached is a reporting schedule for the remainder of the 2016 calendar year.

If you have any questions, please contact David Garr in the Reports Analysis Division on the toll free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). His local number is (202) 694-1137.

Sincerely,

A handwritten signature in black ink that reads "Kristin D. Roser".

Kristin Roser
Chief, Compliance Branch
Reports Analysis Division

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2016 Monthly Filing Schedule

Report Type	Coverage dates	Due Date
August Monthly	7/1/2016 - 7/31/2016	8/20/2016
September Monthly	8/1/2016 - 8/31/2016	9/20/2016
October Monthly	9/1/2016 - 9/30/2016	10/20/2016
12 Day Pre-General	10/1/2016 - 10/19/2016	10/27/2016
30 Day Post-General	10/20/2016 - 11/28/2016	12/8/2016
Year-End	11/29/2016 - 12/31/2016	1/31/2017

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

NAME OF COMMITTEE (In Full)
Conservative Action FundFEC IDENTIFICATION NUMBER
C00496505Mailing Address 203 South Union Street
Suite 300City State ZIP Code
Alexandria VA 22314

1700001100017

The Committee responds to the September 7, 2016 RFAI concerning an August monthly report, as follows: Consistent with its 7/27/16 Filing Frequency Change Notice, and with 11 C.F.R. 104.5(c), the Committee has been on a quarterly filing schedule since the 7/27/16 filing date. On 12/31/15, the Committee filed a Filing Frequency Change Notice to switch to a monthly filing schedule for the remainder of the 2015 calendar year. The Committee had not previously changed its filing frequency in the 2015 calendar year, so the 12/31/15 Notice was valid. Therefore, the Committee began the 2016 calendar year on a monthly filing schedule, and when it filed its 7/27/16 Notice, it was (1) changing to a quarterly filing schedule, and (2) filing its first Filing Frequency Change Notice for the 2016 calendar year. The Commission's 7/28/16 Acknowledgement of Filing Frequency Change alleges that the Committee's 12/31/15 Notice was filed to change its filing frequency for the 2016 calendar year, and consequently that the 7/27/16 Notice is invalid, but this is incorrect. The 12/31/15 Notice was filed that day precisely in order to change filing frequency before the start of the 2016 calendar year. 11 C.F.R. 104.5(c) states that a committee "may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa", and that a committee does so by "notifying the Commission in writing of its intention." The Committee did so notify the Commission, and the Commission, through its electronic filing platform, received the Notice in 2015.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2016 NOV 15 4:10:02

November 15, 2016

MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: Kristin D. Roser/Aimee Wechsler *KDR*
Reports Analysis Division
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2016 September Monthly Report for
the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2016 September Monthly Report in accordance with 52 U.S.C. § 30104(a). The September Monthly Report was due on September 20, 2016.

The committees listed on the attached RTB Circulation Report either failed to file the report or filed the report no more than thirty (30) days after the due date (considered a late filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers, in their official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

Federal Election Commission
Reason to Believe Circulation Report
2016 SEPTEMBER MONTHLY Not Election Sensitive 09/20/2016 P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
3149	C00496505	CONSERVATIVE ACTION FUND		DAN BACKER	\$660,329	0	10/10/2016	20	\$32,302 (est)	\$793
3150	C00247262	MAGELLAN HEALTH, INC. EMPLOYEE COMMITTEE FOR GOOD GOVERNMENT		ROBIN M. COPELAND	\$119,541	0	9/29/2016	9	\$8,991	\$118
3151	C00544767	STOP HILLARY PAC		DAN BACKER	\$3,851,866	0	10/15/2016	25	\$403,055 (est)	\$9,559
3152	C00327189	VALUE IN ELECTING WOMEN POLITICAL ACTION COMMITTEE		MEREDITH LESHNER	\$721,174	0		Not Filed	\$80,130 (est)	\$4,784

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2016)
September Monthly Report for the)
Administrative Fine Program:)
CONSERVATIVE ACTION FUND, and) AF# 3149
BACKER, DAN ESQ. as treasurer;)
MAGELLAN HEALTH, INC.) AF# 3150
EMPLOYEE COMMITTEE FOR GOOD)
GOVERNMENT, and COPELAND, M.)
ROBIN as treasurer;)
STOP HILLARY PAC, and BACKER,) AF# 3151
DAN as treasurer;)
VALUE IN ELECTING WOMEN) AF# 3152
POLITICAL ACTION COMMITTEE, and)
LESHER, MEREDITH as treasurer;)

CERTIFICATION

I, Shelley E. Garr, Deputy Secretary of the Federal Election Commission, do hereby certify that on November 17, 2016 the Commission took the following actions on the Reason To Believe Recommendation - 2016 September Monthly Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated November 16, 2016, on the following committees:

AF#3149 Decided by a vote of 6-0 to: (1) find reason to believe that CONSERVATIVE ACTION FUND, and BACKER, DAN ESQ. in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3150 Decided by a vote of 6-0 to: (1) find reason to believe that MAGELLAN HEALTH, INC. EMPLOYEE COMMITTEE FOR GOOD GOVERNMENT, and COPELAND, M. ROBIN in her official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3151 Decided by a vote of 6-0 to: (1) find reason to believe that STOP HILLARY PAC, and BACKER, DAN in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3152 Decided by a vote of 6-0 to: (1) find reason to believe that VALUE IN ELECTING WOMEN POLITICAL ACTION COMMITTEE, and LESHER, MEREDITH in her official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

November 17, 2016
Date

Shelley E. Garr
Shelley E. Garr
Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 17, 2016

Dan Backer, in official capacity as Treasurer
Conservative Action Fund
203 South Union Street, Suite 300
Alexandria, VA 22314

C00496505
AF#: 3149

Dear Mr. Backer:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a September Monthly Report of Receipts and Disbursements covering the period August 1, 2016 through August 31, 2016. This report shall be filed no later than September 20, 2016. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on October 10, 2016, 20 days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On November 17, 2016, the FEC found that there is reason to believe ("RTB") that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before September 20, 2016. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$793. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$793 is due within forty (40) days of the finding, or by December 27, 2016, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$32,302
Number of Days Late: 20
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the

Commission's RTB finding, or December 27, 2016. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

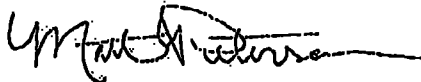
5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Aimee Wechsler in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chair

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$793 for the 2016 September Monthly Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Conservative Action Fund

FEC ID#: C00496505

AF#: 3149

PAYMENT DUE DATE: December 27, 2016

PAYMENT AMOUNT DUE: \$793



PAC • CAMPAIGN • NON-PROFIT • POLITICAL LAW

Federal Election Commission
Office of Administrative Review
999 E Street, N.W.
Washington, D.C. 20463

RE: RTB Finding Against Conservative Action Fund
C00496505
AF #3149

RECEIVED
FEC MAIL CENTER
2016 NOV 23 AM 11:51

Dear Sir or Ma'am,

Conservative Action Fund ("CAF"), as well as Dan Backer, in his official capacity as Treasurer, hereby challenge the Federal Election Commission's ("FEC" or "Commission") November 17, 2016, Reason to Believe finding and associated civil penalty in the above-captioned matter, *see* Exhibit 1, on the grounds they are based on factual errors. 11 C.F.R. § 111.35(b)(1). Though not expressly authorized by § 111.35(b), CAF also maintains that the finding is based on legal errors, as well.

STATEMENT OF FACTS

The Federal Election Campaign Act, Pub. L. No. 92-225, 86 Stat. 3 (Feb. 7, 1972), as amended by the Bipartisan Campaign Reform Act, Pub. L. No. 107-155, 116 Stat. 81 (Mar. 27, 2002), requires political committees to file periodic reports concerning their receipts and disbursements. 52 U.S.C. § 30104(a)(1). Unauthorized political committees (colloquially, "PACs") may choose to file either quarterly reports pursuant to 52 U.S.C. § 30104(a)(4)(A), or monthly reports pursuant to 52 U.S.C. § 30104(a)(4)(B).

FEC regulations provide that a political committee "may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa." 11 C.F.R. § 104.5(c). A committee "may change its filing frequency . . . no more than once per calendar year." *Id.*

As of early December 2015, CAF was required to file reports with the FEC on a quarterly basis. On December 31, 2015, at approximately 2:16 P.M. Eastern Standard Time ("EST"), CAF filed an FEC Form 99 through CMDI Crimson, an electronic filing platform, to notify the Commission that it "is switching to monthly filing." Exh. 2 (hereafter, "2015 Change-of-Frequency Notice"). CAF had not previously changed its filing frequency in 2015. The FEC received CAF's notice "immediately." 52 U.S.C. § 30104(a)(12)(A)(i)(II), (a)(12)(B). CAF's submission complied with the FEC's electronic filing specification requirements and, on information and belief, was "checked upon receipt against the [FEC's] validation program" and was properly validated. 11 C.F.R. § 104.18(e)(1). CAF's notice was then made publicly accessible, also on December 31, 2015, through the FEC's website.

On January 7, 2016, CAF received a letter from the FEC stating, "The Commission has received notification of your 12/31/2015 request to change to a Monthly filer of receipt and disbursements." Exh. 3. Consistent with its changed filing status, CAF filed monthly reports from February 2016 through July 2016.

On July 27, 2016, CAF filed a FEC Form 99, again through CMDI Crimson, to notify the Commission that it is "switching to quarterly filing." Exh. 4 (hereafter, "2016 Change-of-Frequency Notice"). The FEC responded the next day with a letter stating:

The Commission has received notification of your 7/27/2016 request to change to a Quarterly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. On 12/31/2015 the committee requested to change its filing frequency to Monthly for the 2016 calendar year; therefore, the 7/27/2016 request to change to a Quarterly filing schedule for 2016 is denied.

Exh. 5.

Subsequently, CAF submitted a Form 99 explaining that it had validly changed its filing frequency from being a monthly filer to a quarterly filer, laying out the analysis specified below. Exh. 6. Consistent with its new status as a quarterly filer, CAF timely filed a report on October 10, 2016 concerning its activities from July 1, 2016 through September 30, 2016. Consequently, CAF has timely submitted all required reports.

ANALYSIS AND BASIS FOR CHALLENGE

The FEC's RTB finding, that CAF was required to file a September Monthly Report of Receipts and Disbursements, is incorrect. On July 27, 2016, CAF validly switched from being a monthly filer to a quarterly filer, *see* 52 U.S.C. § 30104(a)(4)(A)-(B); 11 C.F.R. § 104.5(c), and therefore was not required to file a September monthly report. The report that CAF filed on October 10, 2016 was not a late September monthly report, but rather its quarterly report, which was filed on time and disclosed its activities from July 1, 2016 through September 30, 2016.

The FEC erred in rejecting CAF's 2016 Change-of-Frequency Notice. The FEC's regulations concerning change-of-frequency notices provide, "Designations, reports or statements electronically filed must be received and validated at or before 11:59 p.m., eastern standard/daylight time on the prescribed filing date to be timely filed." *Id.* 11 C.F.R. § 104.5(e); *accord id.* § 100.19(c); *see also id.* § 104.18(e) (discussing the FEC's validation program for electronically submitted documents). CAF filed its 2015 Change-of-Frequency Notice through an electronic filing platform at approximately 2:16 P.M. on December 31, 2015—in other words, during normal business hours on a regularly scheduled workday. The notice was received,

validated, and made publicly available through the FEC's website the same day. Because CAF's 2015 Change-of-Frequency Notice was "received and validated" before 11:59 P.M. EST on December 31, 2015, it must be deemed filed in 2015. *Id.* § 104.5(e). Indeed, the FEC's response to that notice expressly identifies it as CAF's "12/31/2015 request to change to a Monthly filer." Exh. 3.¹ The fact that the FEC may not have further processed or responded to the notice until January 7, 2016, *see* Exh. 2, is completely irrelevant and does not affect its filing date.

CAF's 2016 Change-of-Frequency Notice, filed on July 27, 2016, was therefore its first and only change to its filing frequency for calendar year 2016. That notice did not violate 11 C.F.R. § 104.5(c)'s restriction that a committee "may change its filing frequency no more than once per calendar year." As CAF's 2016 Change-of-Frequency Notice was legally valid, it was not obligated to file a September monthly report. CAF's October 10 filing was not a late September monthly report, but rather a timely quarterly report. The FEC's findings against CAF and civil penalty therefore rest on both factual and legal errors and must be vacated.

VERIFICATION

Pursuant to 11 C.F.R. § 111.36(c), I certify that I am at least 18 years old and of sound mind. Except where otherwise specified, the foregoing statements of fact are based on personal knowledge. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. If called upon to testify, I would make materially identical assertions.

Executed on November 22, 2016.

/s/ Dan Backer

Dan Backer

Counsel for Conservative Action Fund

¹ Consistent with its regulations, the FEC has a longstanding pattern and practice of accepting change-of-frequency forms and giving them legal effect as of their date of receipt. Departing from such an interpretation and application of the law would be both arbitrary and a violation of CAF's Equal Protection rights under the Due Process Clause of the Fifth Amendment.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 17, 2016

Dan Backer, in official capacity as Treasurer
Conservative Action Fund
203 South Union Street, Suite 300
Alexandria, VA 22314

C00496505
AF#: 3149

Dear Mr. Backer:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a September Monthly Report of Receipts and Disbursements covering the period August 1, 2016 through August 31, 2016. This report shall be filed no later than September 20, 2016. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on October 10, 2016, 20 days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On November 17, 2016, the FEC found that there is reason to believe ("RTB") that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before September 20, 2016. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$793. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$793 is due within forty (40) days of the finding, or by December 27, 2016, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$32,302
Number of Days Late: 20
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the

Commission's RTB finding, or December 27, 2016. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Conservative Action Fund and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

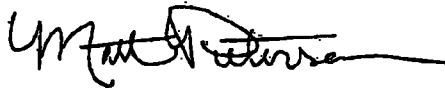
5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Aimee Wechsler in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chair

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$793 for the 2016 September Monthly Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Conservative Action Fund

FEC ID#: C00496505

AF#: 3149

PAYMENT DUE DATE: December 27, 2016

PAYMENT AMOUNT DUE: \$793

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

This committee is switching to monthly filing.

UNCLASSIFIED



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-O

January 7, 2016

DAN BACKER, ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: CHANGE TO MONTHLY FILER

Dear Treasurer:

The Commission has received notification of your 12/31/2015 request to change to a Monthly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. Attached is a reporting schedule for the remainder of the 2015 calendar year and the 2016 calendar year.

If you have any questions, please contact David Garr in the Reports Analysis Division on the toll free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). His local number is (202) 694-1137.

Sincerely,

A handwritten signature in black ink that reads "Kristin D. Roser".

Kristin Roser
Chief, Compliance Branch
Reports Analysis Division

223

2016 Monthly Filing Schedule

Report Type	Coverage dates	Due Date
2015 Year-End	7/1/2015 - 12/31/2015	1/31/2016
February Monthly	1/1/2016 - 1/31/2016	2/20/2016
March Monthly	2/1/2016 - 2/29/2016	3/20/2016
April Monthly	3/1/2016 - 3/31/2016	4/20/2016
May Monthly	4/1/2016 - 4/30/2016	5/20/2016
June Monthly	5/1/2016 - 5/31/2016	6/20/2016
July Monthly	6/1/2016 - 6/30/2016	7/20/2016
August Monthly	7/1/2016 - 7/31/2016	8/20/2016
September Monthly	8/1/2016 - 8/31/2016	9/20/2016
October Monthly	9/1/2016 - 9/30/2016	10/20/2016
12 Day Pre-General	10/1/2016 - 10/19/2016	10/27/2016
30 Day Post-General	10/20/2016 - 11/28/2016	12/8/2016
Year-End	11/29/2016 - 12/31/2016	1/31/2017

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

NAME OF COMMITTEE (In Full)
Conservative Action Fund

FEC IDENTIFICATION NUMBER
C00496505

Mailing Address 203 South Union Street
Suite 300

City	State	ZIP Code
Alexandria	VA	22314

This committee is switching to quarterly filing.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-O

July 28, 2016

DAN BACKER, ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: CHANGE TO MONTHLY FILER

Dear Treasurer:

The Commission has received notification of your 7/27/2016 request to change to a Quarterly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. On 12/31/2015 the committee requested to change its filing frequency to Monthly for the 2016 calendar year; therefore, the 7/27/2016 request to change to a Quarterly filing schedule for 2016 is denied. Attached is a reporting schedule for the remainder of the 2016 calendar year.

If you have any questions, please contact David Garr in the Reports Analysis Division on the toll free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). His local number is (202) 694-1137.

Sincerely,

A handwritten signature in black ink that reads "Kristin D. Roser".

Kristin Roser
Chief, Compliance Branch
Reports Analysis Division

223

2016 Monthly Filing Schedule

Report Type	Coverage dates	Due Date
August Monthly	7/1/2016 - 7/31/2016	8/20/2016
September Monthly	8/1/2016 - 8/31/2016	9/20/2016
October Monthly	9/1/2016 - 9/30/2016	10/20/2016
12 Day Pre-General	10/1/2016 - 10/19/2016	10/27/2016
30 Day Post-General	10/20/2016 - 11/28/2016	12/8/2016
Year-End	11/29/2016 - 12/31/2016	1/31/2017

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

NAME OF COMMITTEE (In Full)
Conservative Action FundFEC IDENTIFICATION NUMBER
C00496505Mailing Address 203 South Union Street
Suite 300

City	State	ZIP Code
Alexandria	VA	22314

The Committee responds to the September 7, 2016 RFAI concerning an August monthly report, as follows: Consistent with its 7/27/16 Filing Frequency Change Notice, and with 11 C.F.R. 104.5(c), the Committee has been on a quarterly filing schedule since the 7/27/16 filing date. On 12/31/15, the Committee filed a Filing Frequency Change Notice to switch to a monthly filing schedule for the remainder of the 2015 calendar year. The Committee had not previously changed its filing frequency in the 2015 calendar year, so the 12/31/15 Notice was valid. Therefore, the Committee began the 2016 calendar year on a monthly filing schedule, and when it filed its 7/27/16 Notice, it was (1) changing to a quarterly filing schedule, and (2) filing its first Filing Frequency Change Notice for the 2016 calendar year. The Commission's 7/28/16 Acknowledgement of Filing Frequency Change alleges that the Committee's 12/31/15 Notice was filed to change its filing frequency for the 2016 calendar year, and consequently that the 7/27/16 Notice is invalid, but this is incorrect. The 12/31/15 Notice was filed that day precisely in order to change filing frequency before the start of the 2016 calendar year. 11 C.F.R. 104.5(c) states that a committee "may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa", and that a committee does so by "notifying the Commission in writing of its intention." The Committee did so notify the Commission, and the Commission, through its electronic filing platform, received the Notice in 2015.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 2017

**REVIEWING OFFICER RECOMMENDATION
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 3144 and AF# 3149 – Conservative Action Fund and Dan Backer, in his official capacity as Treasurer (C00496505)

Summary of Recommendation

Make a final determination in AF# 3144 and AF# 3149 that the respondents violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$643 in AF# 3144 and \$793 in AF# 3149.

Reason-to-Believe Background

The 2016 August Monthly Report covering the period of July 1 through July 31, 2016 was due on August 20, 2016. The 2016 September Monthly Report covering the period of August 1 through August 31, 2016 was due on September 20, 2016. The Commission filed the 2016 October Quarterly Report covering the period of July 1 through September 30, 2016 on October 10, 2016. The 2016 August and September Monthly Reports are not election sensitive reports. The activity that should have been disclosed in the 2016 August Monthly Report was filed more than 30 days after the August 20, 2016 due date; therefore, the 2016 August Monthly Report is considered not filed. The activity that should have been disclosed in the 2016 September Monthly Report was filed within 30 days of the September 20, 2016 due date; therefore, the 2016 September Monthly Report is considered 20 days late. 11 C.F.R. §§ 111.43(d)(1) and (e)(1).

On October 18 and November 17, 2016, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to file the 2016 August Monthly Report and 2016 September Monthly Report, respectively. The Commission also made a preliminary determination that the civil money penalties were \$643 in AF# 3144 and \$793 in AF# 3149 based on the schedule of penalties at 11 C.F.R. § 111.43. Letters dated October 19 and November 17, 2016, respectively, were mailed to the respondents' address of record by the Reports Analysis Division ("RAD") to notify them of the Commission's RTB findings and civil money penalties.

Legal Requirements

The Federal Election Campaign Act ("Act") states that the treasurer of a political committee not authorized by a candidate which is filing on a monthly basis shall file a report for the month ending July 31 no later than August 20. In addition, the treasurer of a political committee not authorized by a candidate which is filing on a monthly basis shall file a report for the month ending August 31 no later than September 20. 52 U.S.C. § 30104(a)(4)(B) and

11 C.F.R. § 104.5(c)(3)(i) Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

Respondents' Challenges

On November 17 and 23, 2016, the Commission received the written responses ("challenges") for AF# 3144 and AF# 3149, respectively. The Treasurer challenges the RTB findings on the grounds that they are based on factual and legal errors. Specifically, the Treasurer contends that the Committee was a quarterly filer not required to file the 2016 August Monthly and September Monthly Reports.

The Treasurer explains that in early December 2015, the Committee was a quarterly filer. On December 31, 2015, the Committee electronically filed a notice informing the Commission that it was switching to a monthly filing schedule. That same day, the Commission accepted the filing and made it publicly available on the Commission's website. The Treasurer notes that the Committee had not previously changed its filing frequency in 2015.

On January 7, 2016, the Committee received a letter from the Commission indicating that it had received the Committee's request to switch to a monthly filing schedule. The Committee then filed monthly reports from February through July 2016.

On July 27, 2016, the Committee electronically filed a notice informing the Commission that it was switching to a quarterly filing schedule. On July 28, 2016, the Commission sent a letter to the Committee denying its request because the Committee had previously changed its filing frequency for the 2016 calendar year. The Committee then filed a response "...explaining that it had validly changed its filing frequency from being a monthly filer to a quarterly filer."

The Treasurer further states:

The FEC erred in rejecting CAF's 2016 Change-of-Frequency Notice. The FEC's regulations concerning change-of-frequency notices provide, "Designations, reports or statements electronically filed must be received and validated at or before 11:59 p.m., eastern standard/daylight time on the prescribed filing date to be timely filed." *Id.* 11 C.F.R. § 104.5(e); *accord id.* § 100.19(c); *see also id.* § 104.18(e) (discussing the FEC's validation program for electronically submitted documents). CAF filed its 2015 Change-of-Frequency Notice through an electronic filing platform at approximately 2:16 P.M. on December 31, 2015- in other words, during normal business hours on a regularly scheduled workday. The notice was received, validated, and made publicly available through the FEC's website the same day. Because CAF's 2015 Change-of-Frequency Notice was "received and validated" before 11:59 P.M. EST on December 31, 2015, it must be deemed filed in 2015. *Id.* § 104.5(e). Indeed, the FEC's response to that notice expressly identifies it as CAF's "12/31/2015 request to change to a Monthly filer." Exh. 3. [Footnote 1. Consistent with its regulations, the FEC has a longstanding custom, pattern, and practice of accepting change-of-frequency

forms and giving them legal effect as of their date of receipt. Departing from such an interpretation and application of the law would be both arbitrary and a violation of SHP's Equal Protection rights under the Due Process Clause of the Fifth Amendment.] The fact that the FEC may not have further processed or responded to the notice until January 7, 2016, *see* Exh. 2, is completely irrelevant and does not affect its filing date.

CAF's 2016 Change-of-Frequency Notice, filed on July 27, 2016, was therefore its first and only change to its filing frequency for calendar year 2016. That notice did not violate 11 C.F.R. § 104.5(c)'s restriction that a committee "may change its filing frequency no more than once per calendar year." As CAF's 2016 Change-of-Frequency Notice was legally valid, it was not obligated to file an August monthly report. The FEC's findings against CAF and civil penalty therefore rest on both factual and legal errors and must be vacated.

The challenges include copies of the referenced Committee filings and Commission correspondence.

Analysis

On December 31, 2015, the Committee submitted a written notice to change its filing frequency from quarterly to monthly. On January 7, 2016, RAD sent a notice to the respondents acknowledging the change in filing frequency. The notice, sent via email to "dbacker@dbcapitolstrategies.com," explained that, pursuant to 11 CFR § 104.5(c), a committee may change its filing frequency no more than once per calendar year and included a reporting schedule through the end of 2016. The schedule included the 2015 Year-End Report to be filed as a quarterly filer and the monthly reports to be filed for the 2016 reporting year.

On February 1, 2016, the respondents appropriately filed the 2015 Year-End Report as a quarterly filer, covering July 1, 2015 through December 31, 2015. The respondents then appropriately filed the 2016 February through July Monthly Reports as a monthly filer.

On July 27, 2016, the Committee submitted a written notice to change its filing frequency from monthly to quarterly. On July 28, 2016, RAD sent a notice to the respondents denying their request to switch to quarterly filing. The notice, sent via email to "dbacker@dbcapitolstrategies.com," explained that, pursuant to 11 CFR § 104.5(c), a committee may change its filing frequency no more than once per calendar year, and as outlined above, the December 31, 2015 request to switch to monthly had exhausted their single filing frequency switch for 2016.

On September 7, 2016, RAD sent a non-filer notification for the 2016 August Monthly Report via email to "dbacker@dbcapitolstrategies.com." On September 19, 2016, the Committee filed a Miscellaneous Document to defend its position that that the December 31, 2015 request to change its filing frequency should be considered its single filing frequency change for 2015, and the July 27, 2016 request to change its filing frequency should be considered its single filing frequency change for 2016.

On October 6, 2016, RAD sent a non-filer notification for the 2016 September Monthly Report via email to "dbacker@dbcapitolstrategies.com." On October 10, 2016, the Committee filed the 2016 October Quarterly Report covering the period of July 1 through September 30, 2016.

The respondents contend the annual single filing frequency change limit is based on the submission date of that notice to the Commission. Therefore, the respondents believe their December 31, 2015 filing frequency change notice applied to 2015, and their July 27, 2016 filing frequency change notice should be permissible for 2016. The respondents indicate the Commission may be considering the December 31, 2015 notice the Committee's single 2016 filing frequency change because the Commission "...may not have further processed or responded to the notice until January 7, 2016..." The Reviewing Officer confirms that the Commission's processing and/or response dates were not and are not a factor in determining the applicable calendar year. Instead, the Commission determines the applicable calendar year based on the effective date of the change in filing frequency.

According to the Commission's regulations, a political committee that is not an authorized committee of a candidate may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or *vice versa*. A committee may change the frequency of its reporting only after notifying the Commission in writing of its intention at the time it files a required report under its current filing frequency. The committee will then be required to file the next required report under its new filing frequency. A political committee may *change* its filing frequency no more than once per calendar year. 11 CFR § 104.5(c).

The respondents' December 31, 2015 filing frequency change notice was not submitted in conjunction with a required report as required by 11 CFR § 104.5(c). Therefore, the Commission considered the notice to be filed with the next required report, the 2015 Year-End Report. The 2015 Year-End Report for quarterly filers covered the period of July 1, 2015 through December 31, 2015 and was due January 31, 2016.¹ The *change* to a monthly filing frequency took effect with the next required report, the 2016 February Monthly Report. The 2016 February Monthly Report covered the period of January 1, 2016 through January 31, 2016 and was due February 20, 2016. Therefore, the respondents' December 31, 2015 notice *changed* its filing frequency for 2016 and exhausted its annual single filing frequency change limit for 2016.

The Reviewing Officer confirms the Commission appropriately denied the respondents' July 27, 2016 request to switch to quarterly filing. The Reviewing Officer also confirms the respondents, as monthly filers, were required to file the 2016 August and September Monthly Reports. Their challenge fails to adequately address any of the three valid grounds for challenging the RTB finding or proposed penalty at 11 C.F.R § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. Therefore, the Reviewing Officer

¹ In non-election years, a political committee that is not an authorized committee of a candidate which is filing on a quarterly basis files semi-annual reports. 11 CFR § 104.5(c)(2).

recommends that the Commission make a final determination in AF# 3144 and AF# 3149 that the respondents violated 52 U.S.C. § 30104(a) and assess civil money penalties of \$643 in AF# 3144 and \$793 in AF# 3149.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 3144 involving Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 3144 that Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$643;
- (3) Adopt the Reviewing Officer recommendation for AF# 3149 involving Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, in making the final determination;
- (4) Make a final determination in AF# 3149 that Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$793; and
- (5) Send the appropriate letters.

Attachments

- Attachment 1 –
- Attachment 2 –
- Attachment 3 – Declaration from RAD
- Attachment 4 – Declaration from OAR

DECLARATION OF KRISTIN D. ROSER

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Conservative Action Fund:
 - A) Acknowledgement of Filing Frequency Change, dated January 7, 2016 (sent via electronic mail to: dbacker@dbcapitolstrategies.com);
 - B) Acknowledgement of Filing Frequency Change, dated July 28, 2016 (sent via electronic mail to: dbacker@dbcapitolstrategies.com);
 - C) Non-Filer Letter, dated September 7, 2016, referencing the 2016 August Monthly Report (sent via electronic mail to: dbacker@dbcapitolstrategies.com);
 - D) Non-Filer Letter, dated October 6, 2016, referencing the 2016 September Monthly Report (sent via electronic mail to: dbacker@dbcapitolstrategies.com);
 - E) Reason-to-Believe Letter, dated October 19, 2016, referencing the 2016 August Monthly Report (sent via overnight mail to the address of record).
 - F) Reason-to-Believe Letter, dated November 17, 2016, referencing the 2016 September Monthly Report (sent via overnight mail to the address of record).
4. I hereby certify that I have searched the Commission's public records and find that Conservative Action Fund filed the 2016 October Quarterly Report, covering July 1, 2016

through September 30, 2016, with the Commission on October 10, 2016. In addition, Conservative Action Fund has not filed the 2016 August Monthly Report or the 2016 September Monthly Report with the Commission.

5. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 14th day of December, 2016.



Kristin D. Roser
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-O

January 7, 2016

DAN BACKER, ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: CHANGE TO MONTHLY FILER

Dear Treasurer:

The Commission has received notification of your 12/31/2015 request to change to a Monthly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. Attached is a reporting schedule for the remainder of the 2015 calendar year and the 2016 calendar year.

If you have any questions, please contact David Garr in the Reports Analysis Division on the toll free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). His local number is (202) 694-1137.

Sincerely,

A handwritten signature in black ink that reads "Kristin D. Roser".

Kristin Roser
Chief, Compliance Branch
Reports Analysis Division

2016 Monthly Filing Schedule

Report Type	Coverage dates	Due Date
2015 Year-End	7/1/2015 - 12/31/2015	1/31/2016
February Monthly	1/1/2016 - 1/31/2016	2/20/2016
March Monthly	2/1/2016 - 2/29/2016	3/20/2016
April Monthly	3/1/2016 - 3/31/2016	4/20/2016
May Monthly	4/1/2016 - 4/30/2016	5/20/2016
June Monthly	5/1/2016 - 5/31/2016	6/20/2016
July Monthly	6/1/2016 - 6/30/2016	7/20/2016
August Monthly	7/1/2016 - 7/31/2016	8/20/2016
September Monthly	8/1/2016 - 8/31/2016	9/20/2016
October Monthly	9/1/2016 - 9/30/2016	10/20/2016
12 Day Pre-General	10/1/2016 - 10/19/2016	10/27/2016
30 Day Post-General	10/20/2016 - 11/28/2016	12/8/2016
Year-End	11/29/2016 - 12/31/2016	1/31/2017



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-O

July 28, 2016

DAN BACKER, ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: CHANGE TO MONTHLY FILER

Dear Treasurer:

The Commission has received notification of your 7/27/2016 request to change to a Quarterly filer of receipts and disbursements.

Please be advised that under Section 104.5(c) of the Commission regulations, a committee may change its filing frequency no more than once per calendar year. On 12/31/2015 the committee requested to change its filing frequency to Monthly for the 2016 calendar year; therefore, the 7/27/2016 request to change to a Quarterly filing schedule for 2016 is denied. Attached is a reporting schedule for the remainder of the 2016 calendar year.

If you have any questions, please contact David Garr in the Reports Analysis Division on the toll free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). His local number is (202) 694-1137.

Sincerely,

A handwritten signature in dark ink that reads "Kristin O. Roser". The signature is written in a cursive, flowing style.

Kristin Roser
Chief, Compliance Branch
Reports Analysis Division

2016 Monthly Filing Schedule

Report Type	Coverage dates	Due Date
August Monthly	7/1/2016 - 7/31/2016	8/20/2016
September Monthly	8/1/2016 - 8/31/2016	9/20/2016
October Monthly	9/1/2016 - 9/30/2016	10/20/2016
12 Day Pre-General	10/1/2016 - 10/19/2016	10/27/2016
30 Day Post-General	10/20/2016 - 11/28/2016	12/8/2016
Year-End	11/29/2016 - 12/31/2016	1/31/2017



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-7

September 7, 2016

BACKER, DAN ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: AUGUST MONTHLY REPORT (07/01/2016 - 07/31/2016)

Dear Treasurer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced report of receipts and disbursements or failed to file a report covering the entire reporting period as required by the Federal Election Campaign Act, as amended. 52 U.S.C. §30104(a)

It is important that you file this report immediately with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Please note that electronic filers must submit their reports electronically, as per 11 CFR §104.18. A copy of the report or relevant portions must also be filed with the Secretary of State or equivalent State officer unless the State is exempt from the federal requirement to receive and maintain paper copies. You can verify the Commission's receipt of any documents submitted by your committee on the FEC website at www.fec.gov.

The failure to timely file a complete report may result in civil money penalties, an audit or legal enforcement action. The civil money penalty calculation for late reports does not include a grace period and begins on the day following the due date for the report. Due to heightened security screening measures, delivery of mail by the US Postal Service may be delayed. The Commission recommends that you submit your report via overnight delivery or courier service.

If you have any questions regarding this matter, please contact David Garr in the Reports Analysis Division on our toll free number (800)424-9530. The analyst's direct number is (202)694-1137.

CONSERVATIVE ACTION FUND

Page 2 of 2

Sincerely,

Debbie Chacona

Deborah Chacona
Assistant Staff Director
Reports Analysis Division

250

INFORMATION



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-7

October 6, 2016

DAN BACKER, ESQ., TREASURER
CONSERVATIVE ACTION FUND
203 SOUTH UNION STREET SUITE 300
ALEXANDRIA, VA 22314

IDENTIFICATION NUMBER: C00496505

REFERENCE: SEPTEMBER MONTHLY REPORT (08/01/2016 - 08/31/2016)

Dear Treasurer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced report of receipts and disbursements or failed to file a report covering the entire reporting period as required by the Federal Election Campaign Act, as amended. 52 U.S.C. §30104(a)

It is important that you file this report immediately with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Please note that electronic filers must submit their reports electronically, as per 11 CFR §104.18. A copy of the report or relevant portions must also be filed with the Secretary of State or equivalent State officer unless the State is exempt from the federal requirement to receive and maintain paper copies. You can verify the Commission's receipt of any documents submitted by your committee on the FEC website at www.fec.gov.

The failure to timely file a complete report may result in civil money penalties, an audit or legal enforcement action. The civil money penalty calculation for late reports does not include a grace period and begins on the day following the due date for the report. Due to heightened security screening measures, delivery of mail by the US Postal Service may be delayed. The Commission recommends that you submit your report via overnight delivery or courier service.

If you have any questions regarding this matter, please contact David Garr in the Reports Analysis Division on our toll free number (800)424-9530. The analyst's direct number is (202)694-1137.

CONSERVATIVE ACTION FUND

Page 2 of 2

Sincerely,

Debbie Chacona

250

Deborah Chacona
Assistant Staff Director
Reports Analysis Division

170027123074

DECLARATION OF RHIANNON MAGRUDER

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) A political committee not authorized by a candidate which is filing on a Monthly basis in an election year shall file an August Monthly Report by August 20 and a September Monthly Report by September 20. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on August 20, 2016 for the 2016 August Monthly Report to be timely filed and September 20, 2016 for the September Monthly Report to be timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
- a) Filing Frequency Change Notice filed by Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, on December 31, 2015.
 - b) Filing Frequency Change Notice filed by Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, on July 27, 2016.
 - c) Miscellaneous Report to FEC filed by Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, on September 19, 2016.
 - d) Cover page of the 2016 October Quarterly Report filed by Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, on October 10, 2016. The report covers the period of July 1, 2016 through September 30, 2016.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 12th day of January, 2016.



Rhiannon Magruder
Reviewing Officer
Office of Administrative Review
Federal Election Commission

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

This committee is switching to monthly filing.

11/30/2015 14:16:16

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

NAME OF COMMITTEE (In Full)
Conservative Action Fund

FEC IDENTIFICATION NUMBER
C00496505

Mailing Address 203 South Union Street
Suite 300

City	State	ZIP Code
Alexandria	VA	22314

This committee is switching to quarterly filing.

170021938706

.....

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

NAME OF COMMITTEE (In Full)
Conservative Action FundFEC IDENTIFICATION NUMBER
C00496505Mailing Address 203 South Union Street
Suite 300City State ZIP Code
Alexandria VA 22314

The Committee responds to the September 7, 2016 RFAI concerning an August monthly report, as follows: Consistent with its 7/27/16 Filing Frequency Change Notice, and with 11 C.F.R. 104.5(c), the Committee has been on a quarterly filing schedule since the 7/27/16 filing date. On 12/31/15, the Committee filed a Filing Frequency Change Notice to switch to a monthly filing schedule for the remainder of the 2015 calendar year. The Committee had not previously changed its filing frequency in the 2015 calendar year, so the 12/31/15 Notice was valid. Therefore, the Committee began the 2016 calendar year on a monthly filing schedule, and when it filed its 7/27/16 Notice, it was (1) changing to a quarterly filing schedule, and (2) filing its first Filing Frequency Change Notice for the 2016 calendar year. The Commission's 7/28/16 Acknowledgement of Filing Frequency Change alleges that the Committee's 12/31/15 Notice was filed to change its filing frequency for the 2016 calendar year, and consequently that the 7/27/16 Notice is invalid, but this is incorrect. The 12/31/15 Notice was filed that day precisely in order to change filing frequency before the start of the 2016 calendar year. 11 C.F.R. 104.5(c) states that a committee "may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa", and that a committee does so by "notifying the Commission in writing of its intention." The Committee did so notify the Commission, and the Commission, through its electronic filing platform, received the Notice in 2015.

Image# 201610109032226635

**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines.

12FE4M5

Conservative Action Fund

ADDRESS (number and street)

203 South Union Street

Suite 300

Check if different
than previously
reported. (ACC)

Alexandria

VA

22314

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

C00496505

3. IS THIS
REPORT☒NEW
(N)

OR

☐AMENDED
(A)4. TYPE OF REPORT
(Choose One)

(a) Quarterly Reports:

- ☐ April 15
Quarterly Report (Q1)
- ☐ July 15
Quarterly Report (Q2)
- ☒ October 15
Quarterly Report (Q3)
- ☐ January 31
Year-End Report (YE)
- ☐ July 31 Mid-Year
Report (Non-election
Year Only) (MY)
- ☐ Termination Report
(TER)

(b) Monthly
Report
Due On:☐

Feb 20 (M2)

☐

May 20 (M5)

☐

Aug 20 (M8)

☐Nov 20 (M11)
(Non-Election
Year Only)☐

Mar 20 (M3)

☐

Jun 20 (M6)

☐

Sep 20 (M9)

☐Dec 20 (M12)
(Non-Election
Year Only)☐

Apr 20 (M4)

☐

Jul 20 (M7)

☐

Oct 20 (M10)

☐

Jan 31 (YE)

(c) 12-Day
PRE-Election
Report for the:☐

Primary (12P)

☐

General (12G)

☐

Runoff (12R)

☐

Convention (12C)

☐

Special (12S)

Election on

In the
State of(d) 30-Day
POST-Election
Report for the:☐

General (30G)

☐

Runoff (30R)

☐

Special (30S)

Election on

In the
State of

5. Covering Period

07

01

2016

through

09

30

2016

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Backer, Dan, . . . Esq.

Type or Print Name of Treasurer

Signature of Treasurer

Backer, Dan, . . . Esq.

[Electronically Filed]

Date

10

10

2016

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. § 30109.

Office
Use
Only**FEC FORM 3X**
Rev. 05/2016



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 2017

Dan Backer, Treasurer
Conservative Action Fund
203 South Union Street, Suite 300
Alexandria, VA 22314

C00496505
AF#: 3144 and 3149

Dear Mr. Backer:

On October 18 and November 17, 2016, the Commission found reason to believe ("RTB") that Conservative Action Fund and you, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) for failing to timely file the 2016 August and September Monthly Reports, respectively. The Commission also made a preliminary determination that the civil money penalties were \$643 in AF# 3144 and \$793 in AF# 3149 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing your written responses and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Rhiannon Magruder".

Rhiannon Magruder
Reviewing Officer
Office of Administrative Review



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

2017 FEB 14 AM 9:58

February 14, 2017

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer *APCO*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Rhiannon Magruder *RM*
Reviewing Officer
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 3144 and AF# 3149 – Conservative Action Fund and Dan Backer, in his official capacity as Treasurer (C00496505)

On October 18 and November 17, 2016, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to file the 2016 August Monthly Report and 2016 September Monthly Report, respectively. The Commission also made a preliminary determination that the civil money penalties were \$643 in AF# 3144 and \$793 in AF# 3149 based on the schedule of penalties at 11 C.F.R. § 111.43.

On November 17 and 23, 2016, the Commission received the written responses ("challenges") for AF# 3144 and AF# 3149, respectively. After reviewing the challenges, the Reviewing Officer Recommendation ("ROR") dated January 12, 2017 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination in AF# 3144 and AF# 3149 that the respondents violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$643 in AF# 3144 and \$793 in AF# 3149.

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). To date, a response has not been received.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 3144 involving Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 3144 that Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$643;
- (3) Adopt the Reviewing Officer recommendation for AF# 3149 involving Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, in making the final determination;
- (4) Make a final determination in AF# 3149 that Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$793; and
- (5) Send the appropriate letters.

14-00000-10000

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AFs 3144 and 3149
Final Determination Recommendation:)
Conservative Action Fund and Dan)
Backer, in his official capacity as)
Treasurer (C00496505))

CERTIFICATION

I, Dayna C. Brown, recording secretary of the Federal Election Commission executive session, do hereby certify that on April 19, 2017, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 2-3 to:

- a. Adopt the Reviewing Officer recommendation for AF# 3144 involving Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, in making the final determination.
- b. Make a final determination in AF# 3144 that Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$643.
- c. Adopt the Reviewing Officer recommendation for AF# 3149 involving Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, in making the final determination.
- d. Make a final determination in AF# 3149 that Conservative Action Fund and Dan Backer, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$793.
- e. Send the appropriate letters.

Commissioners Walther and Weintraub voted affirmatively for the motion.

Commissioners Goodman, Hunter and Petersen dissented.

2. Decided by a vote of 5-0 to:

Otherwise terminate the proceedings with the understanding that this is the ministerial vote to close the file.

Commissioners Goodman, Hunter, Petersen, Walther and Weintraub voted affirmatively for the decision.

Attest:

April 20, 2017
Date

Dayna C. Brown
Dayna C. Brown
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 25, 2017

Dan Backer, Treasurer
Conservative Action Fund
203 South Union Street, Suite 300
Alexandria, VA 22314

C00496505
AF#: 3144 and 3149

Dear Mr. Backer:

On October 18 and November 17, 2016, the Commission found reason to believe ("RTB") that Conservative Action Fund and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to file the 2016 August Monthly Report and 2016 September Monthly Report, respectively. The Commission also made a preliminary determination that the civil money penalties were \$643 in AF# 3144 and \$793 in AF# 3149 based on the schedule of penalties at 11 C.F.R. § 111.43. By letters dated October 19 and November 17, 2016, respectively, the Commission sent notification of the RTB findings and civil money penalties. On November 17 and 23, 2016, the Office of Administrative Review received your written responses challenging the RTB findings.

The Reviewing Officer reviewed the Commission's RTB findings with its supporting documentation and your written responses. Based on this review, the Reviewing Officer recommended that the Commission make a final determination in AF# 3144 and AF# 3149 that Conservative Action Fund and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty of \$643 in AF# 3144 and \$793 in AF# 3149. The Reviewing Officer Recommendation was sent to you on January 12, 2017.

On April 19, 2017, the Commission failed to adopt the Reviewing Officer's recommendation with respect to 52 U.S.C. § 30104(a) and voted to terminate the proceedings as a ministerial vote to close the file. A copy of the Final Determination Recommendation is attached.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

1-800-222-1222

Steven Swatten

Attachment

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 3144 + 3149

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